

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u><b>November 29, 2017</b></u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u><b>2014-346-WS</b></u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u><b>2017-721</b></u>

**THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**

**SUBJECT:**

[DOCKET NO. 2014-346-WS](#) - Application of Daufuskie Island Utility Company, Incorporated for Approval of an Increase for Water and Sewer Rates, Terms and Conditions - Staff Presents for Commission Consideration Haig Point Club and Community Association, Incorporated, Melrose Property Owners' Association, Incorporated, and Bloody Point Property Owner's Association's Motion to Require Bond Reformation.

**COMMISSION ACTION:**

The three Intervenor Property Owners' Associations (or "POAs") have filed a motion in this case to require a bond reformation.

Code Section 58-5-240 (D) allows a water and/or wastewater utility to charge requested rates that were not approved by the Commission during its appeal of the Commission's order. They may do this by obtaining an appropriate surety bond or other undertaking. The bond must bind the surety to stand good for the utility if the utility, in this case Daufuskie Island Utility Company fails to repay amounts it collects from its customers in excess of the amounts finally set by the Commission, after the appeal is decided.

In their Motion the POAs state that the Bonds in the present case fail to provide appropriate surety or meet this statutory requirement under the current procedural posture of the case.

The POAs also note that the Bonds themselves are contracts and that they set out the terms of the Surety's payment obligation. Arguably, under the present circumstances, the Surety could deny payment since there are no Orders that may be determined to be valid and enforceable, as stated by the present language of the bond.

Accordingly, the POAs move that the words:

"if the rates ultimately approved in the remand proceeding in Commission Docket No. 2014-346-WS are less than the implemented Rates"

be substituted for language in the Commission Orders which uses the phrase "determined to be valid and enforceable" in the Bond document.

The POAs indicate that using this language will protect DIUC's ratepayers and provide a proper Surety in case the Company fails to repay amounts it collects in excess of the amounts finally approved by the Commission.

DIUC has filed a Response to the Motion opposing it, the gist of their argument being that an outcome in which the surety would refuse to pay is speculative or hypothetical. The Company didn't argue that the language was inappropriate or contrary to the intent of the bond statute 58-5-240 (D).

Above all, I believe the Commission should act to carry out the intent of the bond statute, which is to protect ratepayers when a utility chooses to charge unapproved rates under bond during appeal.

Therefore, I move that we grant the Motion to Require Bond Reformation and that the new language for the Bonds should use the language proposed by the POAs.

PRESIDING: Whitfield

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
BOCKMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
ELAM	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

(SEAL)

RECORDED BY: J. Schmieding

